



# **EPA CAFO NPDES Training**

## **Approaches for Writing the Minimum Measures as NPDES Permit Terms**

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# EPA's 9 Minimum NMP Requirements

- All CAFOs seeking NPDES permit coverage must have a NMP that:
  1. Ensures adequate storage of manure, litter, and process wastewater
  2. Ensures proper management of mortalities
  3. Ensures clean water is diverted from the production area
  4. Prevents the direct contact of confined animals with water
  5. Ensures chemicals are not disposed of in any manure treatment system
  6. Identifies site-specific conservation practices
  7. Identifies protocols for manure and soil testing
  8. Identifies protocols for the land application of nutrients
  9. Identifies necessary records



# Terms of the Nutrient Management Plan

- Any permit issued to a CAFO must require compliance with **the terms** of the CAFO's site-specific NMP
- The terms of the NMP are
  - Information
  - Protocols
  - BMPs and;
  - Other conditions necessary to meet the 9 minimum measures
- The terms of the NMP must specify what the CAFO operator is required to do relating to each of the nine minimum measures when implementing its NMP

# Writing Permit Terms

- A permit writer may establish the terms of the NMP as:
  - Broadly applicable permit conditions;
  - Site-specific permit terms; or
  - Some combination of both.
- How the permit writer chooses to capture the terms of the NMP in the permit is primarily up to the permit writer
- With some exceptions:
  - To the extent that the CAFO regulations necessitate that certain terms be site-specific
  - State-specific requirements for certain BMPs
  - The public may comment on the inclusion on the need for more site-specific terms of the NMP to be included in the permit



# Additional Considerations

- As long as a broadly applicable condition provide sufficient clarity for implementation of the terms by the CAFO, they can be used
- What if the NMP provides site-specific measures for those terms?
  - The permit writer should consider whether it is beneficial for clarity to include the site-specific measures to supplement the generally applicable term
  - The permit writer should also determine if the NMP is missing any site-specific information that is necessary
- What if the NMP provides site-specific measures that conflict with a broadly applicable condition?
  - The permit writer should include provisions in the permit that clarifies which of the conflicting requirements must be followed by the CAFO






# Location of Terms in the Permit

- There is no requirement concerning where the terms of the NMP must appear in the permit
- Permit writer has discretion as to how to write the terms into the permit
  - Not all terms have to be written the same way
  - Terms of NMP are effluent limits
    - See Example Permit



# Approaches for Writing Site-Specific Permit Terms of the NMP

1. Incorporation by reference of the NMP in its entirety;
  - Attach NMP to permit
  - Terms are clearly identifiable in the NMP
  - NMP doesn't contain extraneous information
  - Generally still need a reference to the attachment in the permit
2. Incorporation of only the terms of the NMP by reference, using language that parallels the regulatory provisions for the terms of the NMP;
  - A specific reference to each portion of the NMP that is incorporated as a permit term
3. A specific, detailed identification of each of the terms of the NMP in the text of the permit.
  - Potentially resource-intensive for the permit writer but helps to avoid confusion

A vertical collage of farm animals. At the top, two brown and white cows stand in a field. Below them, a black and white cow stands in a green field. Further down, a large flock of white chickens with red combs is visible. Below the chickens, a group of white turkeys is shown. At the bottom, a white sheep and a black sheep are visible.

# Broadly Applicable Permit Conditions

1. Adequate storage
2. Mortality management
3. Clean water Diversions
4. Prevent direct animal contact with water
5. Chemical handling
6. Conservation practices
7. Manure and soil testing
8. Protocols for land application
9. Record keeping





# Example

## Sample General Permit & NMP

- Manure & Soil Testing
  - General Permit Part II. A. 4. a. ii
    - Requirements of technical standard directly in the permit
    - Applicable to everyone that land applies manure
      - If CAFO transfers all manure the NMP may not include protocols for land application and soil testing – Manure testing required of Large CAFO
  - General Permit Part IV – did not supplement with information from the NMP (see section 1.2)



# Site-Specific Permit Terms

1. Adequate storage
2. Mortality management
3. Clean water Diversions
4. Prevent direct animal contact with water
5. Chemical handling
6. Conservation practices
7. Manure and soil testing
8. Protocols for land application
9. Record keeping

# Example

## Sample General Permit & NMP

- Protocols for Land Application
  - General Permit Part II. A. 4. a. i.
    - Rates are application are not expressed here
      - must be site-specific
  - General Permit Part IV
    - Terms required by the narrative rate approach identified directly into permit.

A vertical collage of farm animals. At the top, two brown and white cows stand in a field. Below them, a black and white cow stands in a green field. Further down, a large flock of white chickens with red combs is visible. Below the chickens, a group of white turkeys is shown. At the bottom, a group of white sheep is visible, with a black sheep in the foreground.

# Broadly Applicable Conditions that are Supplemented with Site-Specific Terms

1. Adequate storage
2. Mortality management
3. Clean water Diversions
4. Prevent direct animal contact with water
5. Chemical handling
6. Conservation practices
7. Manure and soil testing
8. Protocols for land application
9. Record keeping



# Example

## Sample General Permit & NMP

- Adequate Storage
  - Typically have site-specific components
  - Some elements may apply to multiple facilities
    - A state specific requirement for 180 days of storage
- General Permit – broadly applicable
  - Part II 1. a.
  - Part II 2. a.
- General Permit – site-specific from the NMP
  - Part IV A. 1.
    - NMP Section 2.3





# Example

## Sample General Permit & NMP

- Conservation Practices
  - Typically have site-specific components
  - Some elements may apply to multiple facilities
    - 100 foot setback or 35 foot vegetated buffer
- General Permit – broadly applicable
  - Part II 1. a.
  - Part II 2. a.
- General Permit – site-specific from the NMP
  - Part IV A. 5.
    - Criteria pulled directly from the NMP into the permit
    - Identifies fields, acreages, O&M – SITE-SPECIFIC